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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,204	06/28/2004	Marco Winter	PD010078	5298

7590 12/22/2006  
Joseph S Tripoli  
Patent Operations-Thomas multimedia Licensing Inc  
CN 5312  
Princeton, NJ 08543-0028

EXAMINER
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PANNALA, SATHYANARAYA R

ART UNIT	PAPER NUMBER
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2164

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/22/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/500,204

Applicant(s)

WINTER ET AL.

Examiner

Sathyanarayan Pannala

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,6-10,12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-10,12 and 13 is/are rejected.
- 7) ☒ Claim(s) 12-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Applicant's Amendment filed on 10/19/2006 has been entered with amended claims 1 and 6 and cancelled claims 5 and 11. In this Office Action, claims 1-4, 6-10 and 12-13 are pending.

#### ***Claim Objections***

2. Claims 12-13 objected to because of the following informalities: Claims 12-13 are depending on cancelled claim 11. To expedite the prosecution, Examiner assumed as they are depending on claim 1. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 10 is rejected under 35 U.S.C. § 112, second paragraph because claim 10 recites the limitation as "said essence data type instead of said metadata data type" in line 10. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. § 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 6-10 are rejected under 35 U.S.C. § 101, because none of the claims are directed to statutory subject matter. Independent claim 6 is merely claiming functional descriptive material, i.e., abstract ideas. Even when a claim that recites a computer that solely calculates a mathematical formula or a computer disk that solely stores a mathematical formula is not directed to the type of statutory subject matter eligible for patent protection. The claims are not producing useful, concrete and tangible results. See *Diehr*, 450 U.S. at 186 and *Gottschalk v. Benson*, 409 U.S. 63, 71-72 (1972).

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 6-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Guck (US Patent 5,864,870) hereinafter Guck.

9. As per independent claim 6, Guck teaches a method for storing on a server of files of various formats using an object database coupled to a network with clients (col. 3, lines 26-29, Fig. 2, col. 6, lines 31-48). Guck teaches the claimed, receiving data (Fig. 5, col. 7, lines 10-13). Guck teaches the claimed, determining if said received data is a container data type (Fig. 2, col. 7, lines 61-67). Guck teaches the claimed, determining if said received data is at least one of a metadata data type and essence data type, when said received data is not determined to be of said container data type (Fig. 4B, col. 9, lines 25-33). Guck teaches the claimed, determining said received data is at least one of physical data type and abstract data type (col. 4, lines 17-19). Guck teaches the claimed, transmitting said received data to a device for subsequent processing based upon the determinations made in the steps listed above (Fig. 2, col. 7, lines 1-5).

10. As per dependent claim 7, Guck teaches the claimed, received data is determined to be said container data type when a portion of data selected from said received data has been previously determined being said metadata data type (Fig. 2, 5, col. 7, lines 10-13 and 61-67).

11. As per dependent claim 8, Guck teaches the claimed, container data type comports to an HTML compatible data format (Fig. 4,A, col. 8, lines 36-45).
12. As per dependent claim 10, Guck teaches the claimed, received data is determined to be said essence data type instead of said metadata data type (col. 4, lines 17-19).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 1-4, 9, 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guck (US Patent 5,864,870) hereinafter Guck and in view of Esquibel et al. (US Patent 6,662,186) hereinafter Esquibel.

15. As per independent claim 1, Guck teaches a method for storing on a server of files of various formats using an object database coupled to a network with clients (col. 3, lines 26-29). Guck teaches the claimed, receiving data (Fig. 5, col. 7,

lines 10-13). Guck teaches the claimed, analyzing said received data to determine whether the format of said data can be detected (Fig. 3, col. 9, lines 48-49). Guck teaches the claimed, after detecting the format of the received data (Fig. 5, col. 7, lines 10-13). Guck teaches the claimed, said items are metadata being defined as data with a link pointing to reference data and any data referring to said link (col. 4, lines 30-31), essence data being defined as data without an attached link pointing to reference data (col. 4, line 26) and a data container containing at least one of: metadata, essence data, and a different data container (col. 4, line 25).

Guck does not explicitly teach and interpretation by the technical device of specific data. However, Esquibel teaches the claimed, evaluating whether said technical device is able to interpret said data for reproducing a physical representation of said data (Fig. 1, col. 4, lines 41-43). Esquibel teaches the claimed, supplying the result of said first evaluations to the technical device for data type dependent processing of said data (Fig. 1, col. 4, lines 59-65).

Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combined the teachings of the cited references because Esquibel's teachings would have allowed Guck's method to ensure data saved in a particular file format and version is always available, even if the file format, version and the original program are no longer available (col. 1, lines 55-58).

Finally, Guck teaches the claimed, to indicate that the data is either physical data (property) or abstract data (concept) (col. 4, lines 17-19).

16. As per dependent claim 2, Guck and Esquibel combined teaches the claim 1, Esquibel teaches the claimed, for data being interpretable by said technical device is also indicated whether the format type of said data is one of a number of specified format types (Fig. 1, col. 4, lines 44-47). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combined the teachings of the cited references because Esquibel's teachings would have allowed Guck's method to ensure data saved in a particular file format and version is always available, even if the file format, version and the original program are no longer available (col. 1, lines 55-58).

17. As per dependent claim 3, Guck and Esquibel combined teaches the claim 1, Esquibel teaches the claimed, for data being not interpretable by said technical device is also indicated if it is text (Fig. 1, 4, col. 7, lines 55-58). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combined the teachings of the cited references because Esquibel's teachings would have allowed Guck's method to ensure data saved in a particular file format and version is always available, even if the file format, version and the original program are no longer available (col. 1, lines 55-58).

18. As per dependent claim 4, Guck teaches the claimed, technical device is a data sorting device, a database management system or a data content browser (Fig. 1, col. 4, lines 41-47).



19. As per dependent claim 9, Guck and Esquibel combined teaches the claim 1, Esquibel teaches the claimed, received data is determined to be said metadata data type when said data comprises a link with an essence related to said link (Fig. 4, col. 7, lines 34-44). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combined the teachings of the cited references because Esquibel's teachings would have allowed Guck's method to ensure data saved in a particular file format and version is always available, even if the file format, version and the original program are no longer available (col. 1, lines 55-58).

20. As per dependent claim 12-13, Guck and Esquibel combined teaches the claim 1, Esquibel teaches the claimed, received data is determined to be said physical data type when said received data is capable of being of being interpreted by a device implementing said method (Fig. 1, col. 4, lines 59-65). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combine the teachings of the cited references because Esquibel's teachings would have allowed Guck's method to ensure data saved in a particular file format and version is always available, even if the file format, version and the original program are no longer available (col. 1, lines 55-58).

***Response to Arguments***

21. Applicant's arguments filed 10/19/2006 have been fully considered but they are not persuasive and details as follows:

a) Applicant's argument stated as "Applicants therefore request that the Examiner remove the rejections to Claims 6-10 and 12."

In response to Applicant's argument, Examiner respectfully disagrees because amended claim contains "a device" and not claiming the specific claim intended.

b) Applicant's argument stated as "Applicants assert that Claim 1, as amended, has data types that are neither disclosed nor suggested in Guck or Esquibel, alone or in combination."

In response to Applicant argument, Examiner respectfully disagrees because the Prior art by Guck do teach the amended independent claims 1 and 6 for details see the above prior art rejection sections.

### ***Conclusion***

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the


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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sathyanarayan Pannala whose telephone number is (571) 272-4115. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sathyanarayan Pannala  
Primary Examiner

srp  
March 17, 2006